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HITT GAINES, PC
AGERE SYSTEMS INC.
PO BOX 832570
RICHARDSON, TX 75083

EXAMINER

NGUYEN BA, HOANG VU A

ART UNIT PAPER NUMBER

2192

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding..

DETAILED ACTION

1. This action is responsive to the amendment filed February 28, 2006.
2. Claims 1-25 remain pending. Claims 1 and 15 are independent claims.

Response to Amendments

3. Per Applicant's request, claims 1, 7-8, 15 and 18 have been amended.

Response to Arguments

4. Applicant's arguments in the Remarks filed February 28, 2006 have been fully considered but they are not persuasive. The following is an examiner's response to Applicant's arguments.

- a. Rejection of Claims 1-10 and 15-21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,787,235 to Smith:

Applicant essentially submitted that Smith does not teach or suggest "independently appl[y]ing fuzzy logic rules to each value of sets of fuzzified, dynamic values indicating network traffic flow" as recited in Claims 1 and 15.

In response, the examiner respectfully notes the following:

- i. the qualifier "independently" in the limitation "independently applying fuzzy logic rules to each value of sets of fuzzified, dynamic values..." is nowhere found supported in the specification. Thus, the recited limitation is interpreted to broadly apply for all values of all sets of fuzzified, dynamic values.
- ii. It is unclear as to how the recited "fuzzified, dynamic values" should be interpreted. Should the limitation be

interpreted as “fuzzified dynamic values,” or “fuzzified values, or dynamic values,” or fuzzified values and dynamic values,” or “fuzzified values and dynamic values?” For compact prosecution purposes, the limitation is interpreted as “fuzzified dynamic values” because as commonly known in the art, it is understood that the dynamic values are to be fuzzified first before they can be processed by the fuzzy logic rules. Alternatively stated, the fuzzy logic rules are not applied independently to the dynamic values (as a result of one pass) and then to the fuzzified values (as a result of a second pass) but instead to the fuzzified values that are derived from the dynamic values (i.e., one pass only).

Applicant further submitted that Smith is not concerned with dynamic traffic flow in a network but instead is concerned with determining the design of telephone network (See 1:6-11).

In response, the examiner respectfully disagrees with Applicant’s assertion that Smith is not concerned with dynamic traffic flow but instead is concerned only with the determining of the design of a telephone network for the following reasons:

first, by definition a traffic flow cannot be static; therefore, the addition of the modifier “dynamic” to the limitation “traffic flow” is considered to be redundant and accordingly, any arguments that this feature (i.e., “dynamic”) provides patentable distinction over the prior art will be unpersuasive;

secondly, it would be inconceivable nowadays for one skilled in the art to design any telephone network without taking into

consideration network traffic flow; indeed, Smith teachings is purported to predict the functional level (e.g., how confident any switch under consideration can accommodate the amount of telephone calls routing through the switch without failure) of a switch based on its physical characteristics and geographical location in the network using fuzzy logic rules (3:30-67); the application of fuzzy logic rules to the geographic and physical characteristics of a switch should be construed in the aforementioned context wherein the geographical and physical characteristics of the switch will indicate to the designer the performance level of confidence of the proposed switch at that particular geographical location subjected to a particular amount of telephone calls routed to that switch at a particular time; in case the physical characteristics of the switch cannot allow the switch to handle that amount of traffic (low confidence), a different switch with a better level of confidence would be used. Therefore, these characteristics are all changing (i.e., dynamic) with time and the amount of telephone calls routing to the switch under test; and

thirdly, if Smith is not concerned with dynamic condition of the traffic flow, then Smith does have not any need for the use of fuzzy logic rules which are effectively applied for systems that try to adapt to changing conditions.

According to the foregoing discussion, the rejection of amended Claims 1-10 and 15-21 under 35 U.S.C. § 103(a) as being unpatentable over Smith is still proper and maintained.

b. Rejection of Claims 11-14 and 22-25 under 35 U.S.C. § 103(a) as being unpatentable over Smith in view of U.S. Patent No. 5,939,925 to Shibata et al.

Applicant essentially argued that Shibata has been cited to teach the subject matter of dependent Claims 11-14 and 22-25 but has not been cited to teach or suggest independently applying fuzzy logic rules to dynamic values indicating network traffic flow.

In response, the examiner respectfully notes that if Shibata does indeed teach the aforementioned applying step then, Shibata would anticipated Claims 11-14 and 22-25 and thus would not be applied in combination with Smith in a 35 U.S.C. § 103 rejection.

Contrarily to Applicant's assertion at page 7 of his Remarks, the cited combination of Smith and Shibata does provide a *prima facie* case of obviousness of Claims 1-25.

5. For the detailed rejection of Claims 1-25, Applicant's attention is respectfully directed to the previous Office action. It is noted that the added limitations to amended independent Claims 1 and 15 have been addressed in the foregoing discussion.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first

reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Vu "Antony" Nguyen-Ba whose telephone number is (571) 272-3701. The examiner can normally be reached on Tuesday-Friday from 7:45 am to 6:15 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Tuan Dam can be reached at (571) 272-3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist (571) 272-2100.

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ANTONY NGUYEN-BA
PRIMARY EXAMINER
May 19, 2006